

Daniel E. Becnel, Jr.

From: Barry Hill [bhill@hwlaw.us]
Sent: Wednesday, July 23, 2008 3:00 PM
To: Daniel E. Becnel, Jr.; jrclim@climacolaw.com; Arnold Levin
Subject: Digitek MDL hearing in San Francisco
Attachments: image001.jpg; Digitek JPML Response of Interested Party (00100597).PDF; Notice to All Involved Counsel - Digitek.pdf

The attached notice to involved counsel set June 24, 2008, as the deadline to respond to the three plaintiffs' petitions to form an MDL.

The attached "Response of Interested Party" was filed on or after July 2, 2008.

The "Response of Interested Party" was filed on behalf of Wanda Boyles, the plaintiff in a Digitek case filed in USDC SD WV, whose federal court complaint is attached to the "Response of Interested Party" and which complaint shows on its face lack of federal jurisdiction, because it alleges plaintiff Boyles is a citizen of WV and that defendant Mylan Pharmaceuticals is also a citizen of WV.

The "Response of Interested Party" also includes copies of Myers and Pennington Digitek complaints filed in WV state court. I became co-counsel for the plaintiffs in these cases after they were filed and I filed a notice of appearance in each. Our motion to consolidate WV state court cases was filed by me in the Myers case.

The "Response of Interested Party" cites probable consolidated WV state court litigation as a reason to send the MDL to Southern District of WV, but the attorneys for "Interested Party" are not part of our WV group of lawyers who filed for consolidation, nor are they welcome to be part of it.

I'm sending this information to you, so that you know that neither I nor anyone I am working with is associated with the form or substance of the "Response of Interested Party" or with the lawyers who filed it.

I have not heard from Dick Dean yet on whether the defendants will indicate to the panel that, if it decides not to send the MDL to their candidate in Toledo, that Northern District of WV is an acceptable alternative.

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